

**BRIGHAM CITY PLANNING COMMISSION MEETING  
TUESDAY, SEPTEMBER 02, 2008 – 6:30 PM  
BRIGHAM CITY COUNCIL CHAMBERS**

<b>PRESENT:</b>	Joan Peterson	Chairperson
	Barbara Poelman	Vice Chairperson
	Lynda Berry	Commissioner
	Deon Dunn	Commissioner
	Roger Handy	Commissioner
	Reese Nielsen	Commissioner
<b>ALSO PRESENT:</b>	Mark Bradley	City Planner
	Eliza McGaha	Secretary
<b>EXCUSED:</b>	Ruth Jensen	City Council Liaison
	Paul Fowler	Commissioner
	Jared Johnson	Community Development Manager

**AGENDA:**

WORK SESSION – AGENDA REVIEW

REGULAR MEETING

PLEDGE OF ALLEGIANCE

APPROVAL OF WORK SESSION MINUTES AND REGULAR MEETING MINUTES

PUBLIC COMMENT (*Per Utah Code, will receive input only, no decision can be made*) for items not listed on the agenda.

PUBLIC HEARING <sup>2</sup> / APPLICATION #3052 / AMEND AND EXTEND LOTS 6 AND 7, BRIGHAM WILLOWS SUBDIVISION PHASE 1 / 1040 & 1044 NORTH 450 WEST / MATT, BROWN, SWM SERVICES, AND SORENSON

PUBLIC HEARING <sup>2</sup> / APPLICATION #3058 / CHANGE OF ZONE FROM MU-160 TO R-1-10 / 700 NORTH HIGHLAND / JOHN W. PARSON

APPLICATION #3038 / DEFERRAL OF IMPROVEMENTS ALONG 900 WEST STREET FRONTAGE / ASSOCIATED BRIGHAM CONTRACTORS

DISCUSSION:

**REGULAR MEETING:**

Ms. Peterson opened the regular meeting at 6:30 p.m. Barbara Poelman led the Pledge of Allegiance.

**APPROVAL OF WORK SESSION MINUTES AND REGULAR MEETING MINUTES:**

On line 111, of the August 19, 2008 work session minutes, the words 'one of' should be added between the words 'said' and 'the'.

**MOTION:** A motion was made by Barbara Poelman to accept the August 19, 2008 work session minutes as amended. The motion was seconded by Roger Handy and passed unanimously.

On line 304, of the August 19, 2008 regular meeting minutes, the word 'than' should be changed to the word 'then'. On line 329, add the word 'a' after the word 'really' and change the second use of the word 'water' to the word 'problem'.

**MOTION:** A motion was made by Barbara Poelman to accept the August 19, 2008 regular meeting minutes as amended. The motion was seconded by Deon Dunn and passed unanimously.

**PUBLIC COMMENT (*Per Utah Code, will receive input only, no decision can be made*):**

There was no public comment.

**PUBLIC HEARING <sup>2</sup> / APPLICATION #3052 / AMEND AND EXTEND LOTS 6 AND 7, BRIGHAM WILLOWS SUBDIVISION PHASE 1 / 1040 & 1044 NORTH 450 WEST / MATT, BROWN, SWM SERVICES, AND SORENSON:**

Mr. Bradley proceeded with a visual presentation. The area used to be part of the old golf course and was tied to the North Point Subdivision. Some staff members were working with the property owner to clean it up and make it more efficient. The land became unusable for the adjacent parcel and also had some complications on the set backs. The intent is for lots 6 and 7 to be extended out, to be able to acquire the land next to it. The City has been working with the property owners to improve the situation and to move it forward. Those lots are owner occupied at this time.

**MOTION:** A motion was made by Roger Handy to open the public hearing for application #3052. The motion was seconded by Reese Nielsen and passed unanimously.

Blaine Fisher came forward and stated that he owned lots 15 and 16. He said the end lot, on 500 West, is lot 16 and the next lot is 15, which is adjacent to lot 6. He said there is a 20-foot piece that is through there that he has been taking care of by watering and cutting the grass. He said he thought it would be a great idea to be deeded to the intended piece of property. He said his property is already 185-feet deep and he would not need another 20-feet. It should belong to someone and the intended property owner has put a lot of care into it. He said this was a smart idea the City has come up with to clean up the property instead of leaving it a no man's land. He was in support of approval of the application.

Clinton Matt came forward and stated that he lives on lot 6. He said for the past eight years he and Mr. Fisher have been taking care of the property.

**MOTION:** A motion was made by Reese Nielsen to close the public hearing for application #3052. The motion was seconded by Barbara Poelman and passed unanimously.

The owners of the parcel are Scott Mitchell and the partnership of the North Point Subdivision who have consented to deed that property over to clean it up and join the subdivision process of the North Point Subdivision.

**MOTION:** A motion was made by Roger Handy to forward application #3052 to the City Council with a recommendation for approval with the stipulations that it will comply with the Staff evaluation; must comply with Chapter 25.05.01 Amendment to Subdivision Plat; must comply with Utah Code Section 10-9a-608 Vacating or Changing a Subdivision Plat; with the finding of facts that the applicant will comply with the Staff evaluation and that such use will not under the circumstances of the particular case be detrimental to the health, safety, or general welfare of persons residing or working in the vicinity or injurious to property or improvements in the vicinity and that such use is in compliance with the Brigham City General Plan. The motion was seconded by Reese Nielsen.

Discussion: Mr. Nielsen asked if they needed to make a condition that the property actually be deeded before the subdivision can be amended. Mr. Bradley said, as part of the amended plat, they would have to get signatures and it would be done as part of the recording process.

The motion passed unanimously.

**PUBLIC HEARING <sup>2</sup> / APPLICATION #3058 / CHANGE OF ZONE FROM MU-160 TO R-1-10 / 700 NORTH HIGHLAND / JOHN W. PARSON:**

Mr. Bradley proceeded with a visual presentation. He explained the zone change request is to change the MU-160 (Mixed Use-160-acres) to R-1-10 (Residential, 1 dwelling unit per lot, per 10,000 square foot parcel). The General Plan identifies this area as low density residential which is consistent with R-1-10. The request is in compliance with the General Plan map but there are some inconsistencies with the goals regarding the east mountain bench. Staff is questioning what the nature of the General Plan update was when the map established the area as low density residential. Generally, if a zone change request is consistent with the General Plan it moves forward in that direction because the General Plan directs the land use application. The applicant and his engineer have provided a better map in regards to the request for a slope analysis. In regards to the concern with access to the property, the City Attorney mentioned that the applicant had the right to move forward with the request without the City being too concerned that the items need to go hand in hand. Discussion of development standards and what can and cannot be developed on this property, if the zone change is approved, would need to be addressed at a more appropriate time.

Mr. Bradley read a comment from the City Engineer; *this is a proper land use request as previously identified within the general plan. Once property is rezoned, the applicant can do additional study to determine if the property is buildable based on numerous codes and standards identified in subdivision and zoning ordinances. A rezone does not guarantee it as buildable but it only tells the developer it is a lawful land use.* Mr. Bradley stated that it will be up to the Planning Commission and the City Council to determine if they are comfortable moving forward with the request prior to the vacating of the lot or vice versa. Mr. Bradley said the applicant had mentioned to him that he felt more comfortable with proceeding with the zone change so he knows if he should proceed with the vacation of the lot.

Mr. Bradley explained that the slopes from the road to the build line, the fault area, range from 18-23 percent, which is not as steep as anticipated when looking at the sketch plan and is fairly consistent with other developments along the east bench. There are standards as to how far back from a fault line a home can be built. There will be a lot of constraints on the area that the applicant and his engineer will have to look at, if he decides to develop. The General Plan suggests that there could be housing in that area but whether or not it is actually feasible is not known.

Mr. Nielsen said he recalled that when the General Plan was being reviewed, that area was not designated as low density housing; it was some time later, during the review process, that it was requested that it be designated higher up on the hill. The discussion was that they could probably put something above Highland on the northern end, as there is on the southern end. He said he did not recall if there was a specific discussion as to how far up it should go. Mr. Bradley commented that the intent of the General Plan did not show those specifics and those are things that need to be looked at and identified. He said there is one subdivision on the southern end of Highland with one lot that the fault runs through and, due to the standards, it is not allowed to be built on. Things such as stability of the hillside, mud slides, and slope need to be evaluated. Ms. Dunn asked if the area was rocky because it appears to be sand. Mr. Bradley pointed out the area that was mined for the construction of I-15. He said that Alan Wright, Brigham City Director of Public Power, mentioned that if this site is developed, because of the nature of the site, they will have to put the power line above ground.

Mr. Handy commented that his understanding is that the configuration could not be built unless there is a second access on the north, where the developer currently does not own property. Mr. Bradley replied that in order for the proposed plan to work, the applicant would need to negotiate and work out the details with the adjacent property owner. If that would not work, there are only 20 lots allowed in a cul-de-sac design and this plan is showing more than that and would need to be modified. There have been comments from the different Divisions that would need to be resolved at the next level if this is approved.

Ms. Poelman asked for clarification of the different steps in the process. Mr. Bradley explained that the zone change is the first step. If it is moved forward with an approval recommendation the next step would be a request to vacate the lot; that request could come at the same time as a proposed preliminary plat which would be public hearings at the Planning Commission level.

John Parson came forward. Ms. Poelman commented that there seemed to be quite a few problems. Mr. Parson said he did not understand what those problems were. He commented that this was not the point in time to address the concerns of the lot configuration. He said he completed the rezone application, which fits the General Plan. He said he did not think a lot of the concerns needed to be addressed until prior to the subdivision going in which, from his understanding, are not typically addressed at this stage. Mr. Nielsen commented that the question, at this point, is whether or not the Commission agrees that the land should be rezoned or if it should maintain the current zoning despite what the General Plan states. There are conflicting directions within the General Plan even though there are certain areas on the map identified as low density housing. It also has guidelines as to what is done with certain areas within the city, whether they want them developed or not. Mr. Nielsen reiterated that the fundamental question is whether or not the Commission wants to rezone the land, at this time, or have it investigated and researched further as well as go back and look at the development of the General Plan and what caused those changes. Ms. Peterson stated that they were only looking at the rezone request, at this time.

Mr. Parson commented that he thought the Kotter Subdivision had to deal with the same issues and the slopes on his lots are less than the ones in the Kotter Subdivision. He said they would have to configure the lots so they are buildable around the fault lines or it would not be worth doing.

**MOTION:** A motion was made by Barbara Poelman to open the public hearing for application #3058. The motion was seconded by Deon Dunn and passed unanimously.

Frank Zesti came forward and stated that he lives on 714 Highland, which is the lot that would become the corner lot if the road goes through. He said one of his concerns is the grade from Highland up to the back of his property line is quite steep; at the corner of Highland and his lot it is close to six feet. He

asked if a road is cut to make the grade, what would be done to keep his yard from falling into the road. He commented that there will probably be a sidewalk installed that he will have to maintain which will be of no benefit to him. He said his backyard shoots straight up about 8 to 10-feet to the next lot level and he is concerned about what things will be put in place to ensure kids do not fall off the hill into his yard. He is also concerned that he will not longer have access to get into his backyard to do maintenance and get rock and landscaping materials. Another concern is runoff.

Rod Nelson came forward and stated he lives at 756 Highland. Mr. Nelson said he did not have any problem with Mr. Parson developing his property. He questioned why that area was not rezoned previously with other developments and commented that the steepness and incline of the road are probably major issues with it. He said part of the issue he has with it is that where Highland comes up from 900 North and crests over, it is so steep that cars coming up that way cannot see oncoming traffic or people in the road; there are the same issues at Highland and 700 North. He said he hoped the zone change would be tabled until there was a better idea of what the plan would be. This plan has been developed before and is being reintroduced now but does not seem to be feasible at this point.

Jeff Matthes came forward and stated he lives at 694 Highland. He said they have lived there for about four years. He said he and his wife feel like this is a win-win situation, in regards to the development of this area. He stated that lot has been an eyesore for quite a while and vacating it and making it a road would give better access to that area, whether there is housing up there or not, which would be a plus for them. He said he realized they would have a corner lot at that time but the overall development of that plan seems to be something they would have no objection to.

**MOTION:** A motion was made by Barbara Poelman to close the public hearing for application #3058. The motion was seconded by Lynda Berry and passed unanimously.

Mr. Bradley met with the applicant and his engineer the morning of this meeting. The current map is what they presented to help satisfy the concern about the slope. When the Staff recommendation was sent out, the recommendation was to continue the application to be able to get information and allow the vacating of the lot to be addressed at the same time. Since then, Mr. Bradley met with the applicant and visited with other Staff and the City Attorney to discuss the validity of some of the concerns, such as the zone change, prior to addressing the access to the property. The Attorney's direction was that it would be appropriate to move the application forward without requiring the vacating of the lot. If the zone change were approved, the applicant would have the assurance that he could apply monies toward the studies that are necessary for the geotech study and developing the site. If it was determined that it would not work, he would still have that lot that he could build on or sell. Currently, the primary purpose of the lot is for a dwelling. There are some things that favor the location of that lot. It does not line up with 700 North. There are some valid concerns. It is consistent with the General Plan map. The language referring to development on the east side bench is more for areas that have not been designated on the General Plan for residential. Staff has tried to be fair to the applicant as well as look out for the best interest of the community.

Mr. Nielsen asked if the area had always been zoned MU-160 or if there have been other requests to rezone something similar in that general location and if that would be something Mr. Bradley could research to find an answer to. Mr. Bradley said his understanding was that a sketch plan had been brought forth on this site previously. He said he would have to gather more information.

Mr. Handy said he would not feel comfortable moving forward on this application until they have done more research on the General Plan as related to this area. He said they had discussed the possibility of having Staff do more research to give them more concrete background as to what happened with the General Plan in terms of putting low density housing in that area.

**MOTION:** A motion was made by Roger Handy to continue application #3058 to the next meeting so they can have some research done by Staff to see if they can add any knowledge that will be helpful in terms of why it is felt that this area is viable and should be zoned as low density housing. The motion was seconded by Reese Nielsen.

Discussion: Mr. Bradley stated the next meeting would be September 16<sup>th</sup>. Mr. Nielsen commented that he was not sure that was sufficient time and suggested that it go to the October 7<sup>th</sup> meeting as he thinks it will take a while to dig into the history and look at the various processes it went through when the General Plan change was made. They may have to contact those who were involved in it to find out. He said he would also like to know the history and specifics of any previous requests for rezone in that area. Ms. Poelman said she would like to know the possibility of rezoning a portion of the area versus the whole thing. The General Plan does not state how far up it goes. Mr. Bradley said the Planning Commission and City Council can determine what the intent of the General Plan was in showing that.

The motion passed unanimously.

Mr. Bradley asked for clarification on the continuation of the application. Mr. Handy stated that it should be up to Staff depending on how long it takes to complete the request. Mr. Bradley informed the applicant and the public that since the public hearing has been held, it will not be renoticed and if they are interested in following this application they should call into the City office to get information regarding the agenda.

**APPLICATION #3038 / DEFERRAL OF IMPROVEMENTS ALONG 900 WEST STREET FRONTAGE / ASSOCIATED BRIGHAM CONTRACTORS:**

This request is for deferral of sidewalk, curb, gutter and extension of asphalt. Mr. Bradley proceeded with a visual presentation. Some of the Staff commented that it is important to have this road improved due to the workforce in that location as well as Forest Street and the anticipated arrival of commuter rail for those who walk to work. Autoliv also has a healthy Utah incentive and they use 900 West for that. This area also borders the train tracks and there are no safe areas for walking or other means beyond traversing with vehicles. Staff has recommended that the deferral be denied. The width of the property is 300-feet. The property owners to the north and south are unknown at this time. Autoliv does not have sidewalk in front of their property nor do they have curb and gutter. The Autoliv building started out as American Greetings in the late 1960's or early 1970's. This area is outside of the sidewalk plan and is not categorized. It was, however, evaluated to be in mid-range due to the railroad site and Autoliv facility.

Ms. Poelman asked why the City does not just put in the improvements where they are needed and have the people in those areas pay for it. Mr. Handy said people could choose to not pay for it. Mr. Bradley explained that there are certain procedures on how a special improvement district is generated and the majority of the people in that district would have to vote to approve it. Mr. Handy asked when the City was going to put sidewalk in front of the fields and the southern part. Mr. Bradley said the developer will need to put it in when it is developed. Mr. Nielsen asked if they could put conditions on it if they recommended approval of the deferral such as if property on either side develops or if the commuter rail terminal ever becomes functional and usable in the city then curb, gutter and sidewalk would have to be put in. Mr. Bradley replied that if the City Council so chose that recommendation they could put that in the agreement. He suggested bringing in a copy of one such agreement so they could see what the format looks like.

Ms. Peterson commented that this would be a good place to start putting it in because of the West Forest Street plan. She said there is a beautiful sidewalk down most of West Forest and it would be an encouragement to get the rest of it in. The comment was made that it needed to start somewhere.

Michael Jones came forward and stated that he works for the architectural firm that is designing the building. He said that ABC is more than happy to put in the sidewalk and they are asking for deferral so they can get it built as one piece. He said the biggest concern with that site was that they do not have a plan for that road, with the new asphalt and new curb. He said it needs to be engineered because it is currently designed to run off the sides of the road; with a new engineered road it would be kind of peaked. They do not want to waste ABC's money by putting in sidewalk, curb and gutter that is not going to fit a future plan. Mr. Jones said if the City has a plan that is ready to go for those spot elevations that they need to match to, ABC would be fine with that. He said they were more than happy to pay for it in the future; they just want to be able to use their money as wisely as they can. He said he had never talked to Staff about it; they just drafted a letter to ask for deferral. Another of their concerns is that there would only be 300-feet of sidewalk without any other sidewalk around it. Mr. Jones said if it was wanted now, his only request was to have the design or the City to tell them exactly where they want the elevations to be put so they make sure they are designing to what the City's future plan is.

Mr. Bradley said he was not familiar with that and said he would be glad to check on it as the City is responsible to provide the spot elevations. Ms. Berry asked, in regards to a prior application where money was put in escrow for such time as sidewalk was required to be put in, if that was available for the Commission to request. Comments were made that that agreement was prior to the sidewalk plan being put in place. Mr. Bradley explained that when a site is developed, a bond has to be posted and there is extra money, in the event the project is not completed, that the City can draw from to complete the project. Ms. Berry asked if the money would be there when the improvements to the street are put in. She asked if the sidewalk was deferred, if a condition could be placed on the business that they have the money in escrow to put the improvements in when it becomes appropriate. Mr. Bradley said it could be done and is usually based on a time frame but with deferrals there is not guarantee of the time frame.

**MOTION:** A motion was made by Roger Handy to continue application #3038 to the next meeting to allow the City to provide the information that the architect needs to do the curb and gutter work and that Mr. Bradley report back on that at the next meeting before any decision. The motion was seconded by Reese Nielsen.

Discussion: Ms. Berry said she would like the escrow situation to be reviewed to see if it is a possibility. Staff is to discuss the storm water and street design concerns with the applicant.

The motion passed unanimously.

#### DISCUSSION:

Ms. Poelman wanted to draw attention to a television program that featured a developer who homeowners are threatening to sue because he allowed a home to be built in an area where the land is now crumbling. It was discussed that a development may be allowed in a certain area but it may not be safe or practical to build there. It is the city staff's job to do the homework and make a recommendation and the Planning Commission's job to use wisdom. Ms. Dunn commented that no one knows what digging on fault lines will do to those fault lines. The concern about the water table in the Kotter estate was discussed and Ms. Poelman said digging for two houses had been done up there and they filled up with water.

Ms. Berry commented on the Shaw sidewalk deferral and recalled that Dr. Shaw said he was dividing his property so he could keep his orchard and would not build there and now there is a home being built in that orchard area. The question was asked if something could be done about making sure the sidewalk is installed because the land is not being used how they said it would be when the deferral request was recommended for approval. She said it seemed that should be pursued. Mr. Bradley said he would find out the status on the deferral. Ms. Dunn commented that the City needed to start having improvement areas and stop allowing spotty areas of sidewalk; do one area at a time and get it done.

Ms. Poelman asked what was intended to go in the area on 1100 South and Main Street where the old Golden Corral used to be. Mr. Bradley said he had not seen any requests come in on that particular piece of property but he would find out.

Mr. Bradley mentioned that the developer of the North Point Subdivision has put that area up for sale.

**MOTION:** A motion was made by Barbara Poelman to adjourn. The motion was seconded by Lynda Berry and passed unanimously.

The meeting adjourned at 7:52 p.m.

*This certifies that the regular meeting minutes of September 02, 2008 are a true and accurate copy as approved by the Planning Commission on October 07, 2008.*

*Signed: \_\_\_\_\_*  
*Jeffery R. Leishman, Secretary*